



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 5366-99
9 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application on behalf of your former late husband for correction of his naval record pursuant to the provisions of Title 10 of the United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your late husband's naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that your late husband enlisted in the Navy on 11 October 1954. A special court-martial convened on 30 November 1955 and found him guilty of unauthorized absences totalling 43 days and failure to obey a lawful order. The court sentenced him to confinement at hard labor for six months, forfeitures of \$25 per month for six months, reduction in pay grade to E-1, and a bad conduct discharge. However, the bad conduct discharge was suspended for six months.

A second special court-martial was convened on 9 October 1956 and found him guilty of an unauthorized absence of 85 days. The court sentenced him to confinement at hard labor for six months, forfeitures of \$25 per month for six months, and a bad conduct discharge. He received the bad conduct discharge on 1 March 1957.

In its review of your application the Board carefully weighed all potentially mitigating factors such as his youth and immaturity. However, the Board concluded that these factors were not

sufficient to warrant recharacterization of his discharge due to the fact that his unauthorized absences totalled more than four months. The Board also noted that the initial sentence of a bad conduct discharge was suspended, thus giving him an opportunity to earn a better discharge. However, he committed another unauthorized absence and was convicted by a second special court-martial that sentenced him to a bad conduct discharge. Based on the foregoing, the Board concluded that no change to the discharge is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director